

REMARKS

Claims 1-15 are pending in the application.

Claims 1-15 were rejected.

Claims 1, 3, 6, 12 and 14 are amended herein.

Claims 2 and 13 are cancelled.

I. 35 U.S.C. §102 Claim Rejections

Independent claim 1, along with dependent claims 2-4, 10 and 11 were rejected under 35 U.S.C. §102(e) as being anticipated by Torsner *et al.* (U.S. Patent No. 7,187,677).

Independent claim 12, along with dependent claims 13-15 were rejected under 35 U.S.C. §102(e) as being anticipated by Chao (U.S. Patent No. 6,693,910). Independent claims 1 and 12 have been amended herein. Applicants respectfully traverse these rejections and request reconsideration thereof based on those amendments, and the arguments presented below.

The thrust of the invention here is a method for reducing the impact of stalling at a communications receiver due to the non-receipt, or delayed receipt of a packet expected by the receiver to be sent from a transmitting location. According to the method of the invention, a probability is determined, based on known system parameters, of a stalling condition occurring in respect to a given transmitted packet, and from that probability, a wait time is determined in respect to an expected event or response. In the event of the event or response not occurring by the end of the wait time so determined, a signal is sent to the receiver that operates to terminate a stall condition occurring in respect to the transmitted packet.

With respect to the rejection of independent claim 1 as being anticipated by Torsner, the Applicant notes that claim 1 includes a limitation directed to the determination of the probability factor described above, and respectfully submits that Torsner cannot reasonably be construed to teach any such probability determination. The particular portion of Torsner cited by the Office Action as supporting its conclusion that Torsner teaches this limitation (col. 3, lines 43-45) is merely a statement of the goal of Torsner's invention ("stall avoidance") and a definition of what constitutes a stall condition for Torsner's approach. Plainly nothing in that particular material provides any teaching of a probability determination, and indeed, lacks the quality of being an enabling disclosure for even the limits of its substantive teaching. In spite

of his strong belief that Torsner fails to teach the limitations of his present claim 1, the Applicant, in the interest of bringing prosecution of this application to an early close, has amended the claim to define that probability determination as a function of known system parameters for the communications system.

While the Applicant acknowledges that this added limitation is essentially comparable to the limitation of dependent claim 2 (and has accordingly cancelled that claim), which claim was also rejected as being anticipated by Torsner, it is further submitted that the portion of Torsner cited in support of that rejection teaches neither the determination of a probability factor generally nor the basing of such a probability factor on system parameters. Rather, the substance of the cited supporting material is directed to the use of a timer at the receiver operated to terminate a stall condition at time-out of the timer, hardly a probabilistic function. The Applicant has further amended the limitation of claim 1 directed to the transmission of a flush command to clarify that the flush command operates to terminate an ongoing stall condition. In view of the amendments to claim 1, and the showing above as to the absence of an anticipatory teaching by Torsner, the Applicant submits that amended claim 1 is clearly patentable over Torsner. Withdrawal of the §102 rejection of claim 1 is accordingly respectfully requested.

With respect to the rejection of independent claim 12 as being anticipated by Chao, the Applicant notes that claim 12 has been amended to incorporate the limitation of dependent claim 13 (with cancellation of that claim). Although the Applicant readily acknowledges that dependent claim 13 was also rejected as being anticipated by Chao, he respectfully submits that a reasonable construction of Chao cannot be read to support a teaching by Chao of the feature represented by the limitation of claim 13. The limitation in question is directed to qualifying the range for a service time out condition of claim 12 as being generated in response to determining a probability of a stalling condition for a transmitted packet. Applicant respectfully suggests that nothing in the teaching of Chao could reasonably be construed to show or suggest the use of a probability factor in respect to a stalling condition. Moreover, the particular portion of Chao cited by the Office Action as support for the rejection of claim 13 (col. 2, lines 60-63 and col 3, lines 1-30) plainly does not contemplate any such probability factor. The first part of the cited material simply contemplates the

operation of a timer at the receiver, much in the manner of the previously cited material from Torsner (and as taught in Applicant's background section as being the standard prior-art approach), to terminate a stall condition at time-out of the timer. The second part of the cited material simply describes the various packet loss or delay scenarios that can lead to the occurrence of a stall condition, substantially the same set of scenarios described in Applicant's background section.

In view of the amendment to claim 12 and the showing above that the limitations of the claim as so amended are clearly not shown or suggested by the teaching of Chao, the Applicant submits that amended claim 12 is clearly patentable over Chao. Withdrawal of the §102 rejection of claim 12 is accordingly respectfully requested.

All of the remaining claims rejected under §102 depend directly or indirectly, from independent claims 1 or 12, which were shown above to be patentable over Torsner or Chao, respectively, and therefore should be patentable as well based on that dependency. Withdrawal of the §102 rejection of dependent claims 3-4, 10-11 and 14-15 is accordingly respectfully requested.

II. 35 U.S.C. §103 Claim Rejections

Dependent claims 5-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Torsner in view of Watanabe *et al.* (U.S. Patent No. 6,285,662). All of these rejected claims depend, directly or indirectly, from independent claim 1, which was shown above to be patentable over Torsner, and therefore should be patentable as well based on that dependency. Withdrawal of the §103 rejection of dependent claims 5-9 is accordingly respectfully requested.

III. Conclusion

If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact applicants' attorney, John Ligon, at (973) 386-4237.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David M. La Bruno". The signature is fluid and cursive, with the first name "David" being the most prominent.

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